

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

Karen Saunders,

Plaintiff,

v.

Dyck-O'Neal, Inc.,

Defendant.

Case No.: 1:17-cv-00335-GJQ-RSK
Hon. Judge Gordon J. Quist
Magistrate Judge Ray Kent

ORAL ARGUMENT REQUESTED

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT PURSUANT TO FED. R.
CIV. P. 56**

Pursuant to Fed. R. Civ. Proc. 56, Defendant Dyck-O'Neal, Inc. ("Defendant"), through its undersigned counsel, Brock & Scott, PLLC, is entitled to summary judgment in its favor as to Plaintiff Karen Saunders' claims under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. As set forth more fully in Defendant's memorandum of law, none of the calls made to Plaintiff were made using an automated telephone dialing system ("ATDS") or an artificial or prerecorded voice as required by 47 U.S.C. § 227(b)(1)(A)(iii). Similarly, the delivery of a voice message directly to a voicemail box does not constitute a "call" subject to the prohibitions set forth in 47 U.S.C. § 227(b)(1)(A)(iii). Accordingly, summary judgment should be entered in Defendant's favor pursuant to Fed. R. Civ. Proc. 56.

Respectfully submitted,

By: /s/ Charity A. Olson
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Dated: April 18, 2018

CERTIFICATE OF SERVICE

I, Charity A. Olson, hereby state that on April 18, 2017, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the attorneys of record.

/s/ Charity A. Olson
Charity A. Olson (P68295)
BROCK & SCOTT, PLLC